

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/625,102

Confirmation No.: 8891

Applicant : Pedro M. Buarque de Macedo

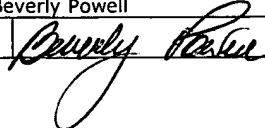
Filed : July 22, 2003

TC/A.U. : 3673

Examiner : Michael Safavi

Docket No. : 50699/11

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Name:	Beverly Powell
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application.

No amendments are being filed with this Request.

This Request is being filed with a Notice of Appeal.

The review is requested for at least the following reasons:

Contrary to the Examiner's positions set forth in his September 11, 2006 Final Office Action, it is respectfully submitted that all of the pending claims are patentable over the combinations of nine prior art references relied upon by the Examiner, with no reasonable basis for making such an extensive combination of references. In particular, it is respectfully submitted that none of the prior art relied upon by the Examiner shows the critical elements of the claimed invention, including the prestressing of a foam glass tile and the claimed ranges of the prestress compression and compression strength.

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In the September 11, 2006 Final Office Action, the Examiner rejected all of the pending claims under 35 U.S.C. § 103(a) as being unpatentable over various combinations of the following nine patents: U.S. Patent No. 4,324,037 to Grady, II ("the '037 Patent"), U.S. Patent No. 3,292,316 to Zeinetz ("the '316 Patent"), U.S. Patent No. 4,450,656 to Lagendijk ("the '656 Patent"), U.S. Patent No. 4,124,365 to Williams et al. ("the '365 Patent"), U.S. Patent No. 3,056,184 to Blaha ("the '184 Patent"), U.S. Patent No. 3,459,565 to Jones et al. ("the '565 Patent"), U.S. Patent No. 3,592,619 to Elmer et al. ("the '619 Patent"), U.S. Patent No. 2,758,937 to Ford ("the '937 Patent") and U.S. Patent No. 3,430,397 to Ellis ("the '397 Patent"). However, it is respectfully submitted that none of the above-mentioned references relied upon by the Examiner teaches or even suggests prestressing of a foam glass tile under any amount of prestress compression, let alone prestress compression of 4,000 psi or greater as required by all of the pending claims in the present application. In particular, neither the '316 Patent nor the '656 Patent, upon which the Examiner relies, teaches prestressing of a foamed glass material under any amount of prestress compression.

To support his prior art rejection, the Examiner points to Fig. 11 and col. 4, lines 5-9 of the '316 Patent. However, nowhere in the '316 Patent, including the portions the Examiner cited, is there any teaching or even suggestion of prestressing of a foam glass tile under any amount of prestress compression. In fact, col. 3, lines 73-74 of the '316 Patent describes what is shown in Fig. 11 merely as a "locking means for use in connection with a U-shaped or tubular seam 19e, 119e, 21e and 121e." Nowhere in the '316 Patent is there a suggestion that Fig. 11 shows prestressing of a foam glass tile

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under any amount of prestress compression. Furthermore, while the '316 Patent suggests panels made of foamed glass or the like ('316 Patent, col. 4, lines 7-8), it then further suggests that "a load sustaining layer [be] made of concrete" ('316 Patent, col. 4, line 14), thus teaching away from production of a load sustaining layer made of prestressed foam glass materials. Based on the foregoing, it is respectfully submitted that the '316 Patent does not teach or suggest prestressing of a foam glass tile under any amount of prestress compression, let alone under prestress compression of 4,000 psi or greater as required by the pending claims, and in fact teaches away from prestressing of a foam glass tile.

In the '656 Patent, the Examiner points to Figs. 1, 2 and 6, as well as col. 3, lines 30-60 and col. 4, lines 34-37 to support his position with respect to the prior art rejection. However, nowhere in the '656 Patent, including the portions the Examiner cited, is there any teaching or even suggestion of prestressing of a foam glass tile under any amount of prestress compression. The '656 Patent suggests, at best, the use of foam glass as the roof covering materials. ('656 Patent, col. 4, lines 32-44). The Examiner points to the inner bracing cables 33, 34, the cross tie cables 36, the lower running cable 45, etc. that form the suspended roof structure in Figs. 1 and 2 of the '656 Patent as showing "tension members," but nowhere in the '656 Patent is there any teaching or suggestion that those tension members contribute to prestressing of foam glass materials used as the roof covering materials. (See generally col. 6, line 42 - col. 8, line 14). In fact, Fig. 6 and col. 9, lines 49-55 of the '656 Patent teach reinforcing of foam glass elements 65 by securing them to the glass-fibre mats 60, 61 by adhesive 66, thus

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providing an alternative means for reinforcing foam glass materials and teaching away from prestressing as means for reinforcing foam glass materials. Based on the foregoing, it is respectfully submitted that the '656 Patent does not teach or suggest prestressing of a foam glass tile under any amount of prestress compression, let alone under prestress compression of 4,000 psi or greater as required by the pending claims as amended herein, and in fact teaches away from prestressing of a foam glass tile.

It is further respectfully submitted that neither the '365 Patent, nor the '184 Patent, nor the '565 Patent, nor the '619 Patent, nor the '937 Patent, nor the '397 Patent teaches or suggests prestressing of a foam glass tile under any amount of prestress compression, let alone under prestress compression of 4,000 psi or greater. In the September 11, 2006 Final Office Action, the Examiner does not point to any portions of these above mentioned references as showing prestressing of a foam glass material, because none of them does.

All of the pending claims in the present application as amended herein require a prestressed foam glass tile having a prestress compression of 4,000 psi or greater. To establish *prima facie* obviousness of a claimed invention under 35 U.S.C. § 103(a), all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03. However, as noted above, none of the prior art references relied upon by the Examiner in connection with the prior art rejection discloses or suggests prestressing of a foam glass tile under any amount of prestress compression, let alone the prestress compression of 4,000 psi or greater. Accordingly, it is respectfully submitted that none of the above-

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mentioned prior art references, either individually or in any reasonable combination, renders any of the pending claims obvious.

In addition, contrary to the Examiner's position, it is also respectfully submitted that none of the above-mentioned prior art references shows the compression strength of 10,000 psi or greater prior to being in the prestressed condition as required by independent Claims 1 and 23 and their respective dependent claims.

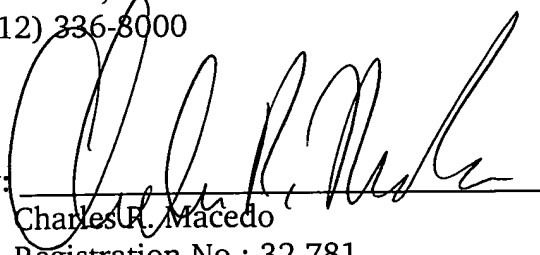
At least for the foregoing reasons, Applicant respectfully requests review of the final rejection in the above-identified application.

No fees are believed to be due in connection with this Communication. However, should any fees be required, authorization is hereby given to charge Deposit Account No. 01-1785.

Respectfully submitted,

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Dated: New York, New York
December 22, 2006

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